

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-0295V

Filed: February 1, 2016

Unpublished

ANN WYBORSKI,

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Petitioner,

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v.

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Attorneys' Fees and Costs; Stipulation
Special Processing Unit ("SPU")

SECRETARY OF HEALTH
AND HUMAN SERVICES,

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Respondent.

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Renee Gentry, Shoemaker, Gentry & Knickelbein, Vienna, VA, for petitioner.

Lisa Watts, U.S. Department of Justice, Washington, DC, for respondent.

DECISION ON ATTORNEYS' FEES AND COSTS¹

Dorsey, Chief Special Master:

On March 23, 2015, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² [the "Vaccine Act"]. Petitioner alleged that as a result of an Influenza ("flu") vaccination on September 13, 2013, she suffered a shoulder injury related to vaccine administration ("SIRVA"). On December 3, 2015, the undersigned issued a decision awarding compensation to petitioner based on respondent's proffer.

On January 19, 2016, petitioner filed a motion for attorneys' fees and costs. On February 1, 2016, the parties filed a Stipulation of Fact Concerning Attorneys' Fees and Costs. According to the stipulation, the parties stipulate to an award of \$30,412.75 in attorneys' fees and \$1,093.86 in costs. In accordance with General Order #9, petitioner

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012)(Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

represents that she is entitled to reimbursement of \$56.49 payable directly to her for costs incurred in this matter.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300 aa-15(e). Based on the reasonableness of petitioner's request and the lack of any objection by respondent, the undersigned **GRANTS** the request for approval and payment of attorneys' fees and costs, and payment of petitioner's own costs.

The undersigned awards the total of \$56.49 as a lump sum in the form of a check payable to petitioner for her own costs incurred in this matter.

The undersigned awards the total of \$31,506.61³ as a lump sum in the form of a check jointly payable to petitioner and petitioner's counsel Renee Gentry for attorneys' fees and costs.

The clerk of the court shall enter judgment in accordance herewith.⁴

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master

³ This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, 42 U.S.C. § 300aa-15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. See generally *Beck v. Sec'y, HHS*, 924 F.2d 1029 (Fed. Cir.1991).

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.